

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3394 of 1997

For Approval and Signature:

Hon'ble THE ACTING CJ R.A.MEHTA

and

MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos.1 to 5 : No

ZILLION PHARMACHEM LTD.

Versus

COMMISSIONER (APPEALS)

Appearance:

MR KK SHAH for Petitioner

Shri H.M. MEHTA with Shri Ketan Dave for
respondents nos.1 and 2.

CORAM : THE ACTING CJ R.A.MEHTA and

MR.JUSTICE N.N.MATHUR

Date of decision: 25/06/97

ORAL JUDGEMENT : (Per R.A. Mehta, Actg CJ)

Rule. Shri H.M. Mehta with Shri Ketan Dave,
learned advocates waive service of the rule.

2. The petitioner being aggrieved by the order-in-
original dated 29.2.1996 has preferred appeal to the
appellate authority along with stay application on

2.5.1996.

3. The appellate authority has not passed any order on the stay application of the petitioner though more than a year elapsed. In the meanwhile coercive recovery is apprehended.

4. In similar circumstances we had, in a group of matters, issued directions on 22.4.1997 38(2) GLR 913 directing the appellate authority therein to decide the stay application and till then coercive recovery should not be made. We had also made it clear that the appellate authority would be free to decide on the facts and in the circumstances of the case without being influenced by the interim order of the High Court.

5. Therefore, in this case too we issue the same directions directing the appellate authority to decide the stay application of the petitioner expeditiously in accordance with law as it deems fit and proper on the facts and in the circumstances of the case. In the meanwhile there shall not be coercive enforcement of the recovery under the order in original. Rule is made absolute with no order as to costs.

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